

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3921 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

=====

1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

SURESHCHANDRA KASHIPRASAD JAIN

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner

MR PATEL for Respondent No. 1

MR BHARAT T RAO for Respondent No. 4

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 15/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner challenges the order of preventive detention dated 12th March, 1999, made by the District Magistrate, Ahmedabad, under the powers conferred upon

him under sub-section (2) of section 3 of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (hereinafter referred to as 'the Act').

Amongst other grounds of challenge, the learned advocate Mr. Prajapati appearing for the petitioner has also challenged the order of detention on the ground that one of the documents i.e. the Government Notification from pages 80 to 100 was in English. The detenu does not know English language and, therefore, he could not make an effective representation against the order of his detention. Under his representation dated 7th April, 1999, the petitioner had requested the Government to supply Hindi translation of the said Notification, however, the Government did not supply the same. In answer to this contention, Mr. Patel, the learned AGP has submitted that the petitioner knows English and also reads the newspaper in English. This information is sought to be supported by the statement given by the petitioner on 28th December, 1998. It transpires that the said statement was made in respect of the Gujarati newspaper. The petitioner, at no point of time, appears to have made any statement to the effect that he knows the English language and also reads the newspaper in English. Mr. Patel is unable to establish before this court that the petitioner knows English and is able to read and understand the contents of the documents in English. Hence, it is required to be held that the petitioner was given a document in a language not known to him and was thus deprived of his right to make an effective representation against the order of detention. The impugned order of detention is, therefore, made in violation of the Constitutional mandate contained in Article 22 (5) and is, therefore, vitiated.

The petition is, therefore, allowed. The impugned order dated 12th March, 1999 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

.....